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Supreme Court, U.S.
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No. 96-224

In The
Supreme Court Of The United States
October Term, 1996

RONA V. FINIZIE,
Petitioner

v.

CITY OF BRIDGEPORT,
Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE
STATE OF CONNECTICUT

RESPONDENT'S BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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PARTIES TO THE PROCEEDING

City of Bridgeport

Rona V. Finizie

Household Finance Corp.

Estate of Ann D. Finizie

Lyonel T. Finizie

Edmond J. Finizie

Superior Fuel Co.

Louise N. Hill

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CITATION OF JUDGMENT DELIVERED IN THE COURTS BELOW

City of Bridgeport v. Finizie, 237 Conn. 909 (1996)

STATEMENT OF CASE

Two foreclosures were commenced in 1984 by the plaintiff respondent, City of Bridgeport, against the defendant petitioner, Rona Finizie, and others as to contiguous properties at 2428 and 2440 North Avenue, Bridgeport, Connecticut for unpaid taxes. The defendant contested these matters, and a Stipulated Judgment in each matter was finally made, in open court, with the defendant accompanied by her counsel, Benson Snaider, on March 25, 1987. A sale date was established of March 26, 1988. Shortly before that date, the defendant moved to open each judgment to extend the sale date, which was granted on March 15, 1988, over the plaintiff's objection, with a new sale date of May 21, 1988. The defendant stayed these sales by filing a Chapter 13 bankruptcy petition on May 20, 1988. Her Chapter 13 plan was confirmed on December 28, 1988 providing for a sale of her real estate by December 31, 1989 to pay the plaintiff. No such sale occurred, and the bankruptcy case was dismissed on motion of the plaintiff by the Bankruptcy Court on September 2, 1992.

The plaintiff thereafter filed a Motion to Reopen as to each parcel to allow a new foreclosure judgment to be entered. The defendant objected and filed a Motion to Amend dated November 25, 1992 to add numerous special defenses challenging the validity of the plaintiff's claims. A hearing on this Motion was held on January 4, 1993 and attended by the defendant and her counsel. No testimony was offered by her, despite claims now on her petition that she made two requests to testify, which the court allegedly ignored. The defendant

has offered no transcript of the hearing to verify her claims, and nothing in the record of prior court proceedings supports her position. The Superior Court denied this Motion by decision dated March 31, 1993. Thereafter, the court granted the Motions for Judgment filed by the plaintiff on April 30, 1993, providing for a sale of both premises on June 19, 1993.

Two days before this date, the defendant filed another Bankruptcy petition. As the total debt owed by her greatly exceeded the value of her property, the Bankruptcy Court, on motion of the plaintiff, granted relief from the stay to allow plaintiff to proceed on its foreclosure actions, which relief was granted on July 20, 1993. No appeal was taken or action taken to obtain a further stay. Thereafter, the defendant voluntarily dismissed her bankruptcy case. On August 2, 1993, the defendant filed a Motion to Vacate her voluntary dismissal, seeking to re-argue the court's decision on the Motion for Relief from Stay. This was originally scheduled for argument on September 15, 1993, and was continued at the request of counsel for the defendant until October 6, 1993 in the Bankruptcy Court.

In the meantime, the Superior Court granted the Motion for Judgment of Strict Foreclosure filed by the plaintiff on August 16, 1993, providing for a law day for the defendant of September 14, 1993, as to each parcel. At the time of those judgments, the total taxes owed to the plaintiff by the defendant on 2440 North Avenue totaled $112,067.88. The total owed as to the property at 2428 North Avenue was $20,859.60. The debt as to both properties was $132,927.48. In addition to the above amounts, the court previously had awarded to the plaintiff attorney's fees and costs. The total value of the properties as found upon return of appraisal

immediately prior to the scheduled sale in June 1993 is $103,000.00.

The defendant thereafter filed motions to open the judgment of strict foreclosure seeking to extend the law day to allow her to have argument in the Bankruptcy Court on her Motion to Vacate Dismissal. Her motions dated August 26, 1993 were denied by the court on September 9, 1993. The defendant filed an Appeal from this denial on September 13, 1993 to the Appellate Court of the State of Connecticut. On October 6, 1993 the Bankruptcy Court denied the Motion to Vacate Dismissal as filed by the defendant. It should be noted that the defendant, Rona Finizie, had merely a fractional interest in the property with her brothers. The tax obligations owed to the City of Bridgeport remain outstanding dating back to the List of October 1, 1976, as the defendant has refused to make payment on her taxes. The cases brought by the plaintiff have been pending since July 3, 1984.

On November 18, 1993, the court terminated the stay of execution on appeal, on motion of the plaintiff, and entered a new judgment of strict foreclosure. No appeal was taken from this judgment. The defendant thereafter sought review of the termination of stay, and although her motion was granted, the relief requested therein was denied, by order dated December 22, 1993. On January 5, 1994 the Appellate Court dismissed the appeal as moot, suo moto. The defendant's certification petition to the state Supreme Court was denied on February 24, 1994. City of Bridgeport v. Finizie, 228 Conn. 925 (1994). The Appellate Court on April 21, 1994 granted the defendant a further stay pending certiorari to the United States Supreme Court, which it later vacated.

The defendant filed a petition for writ of certiorari to the United States Supreme Court on May 25, 1994 (the last possible day to do so), which petition was rejected by the Court. The defendant resubmitted her petition on July 11, 1994. The petition ultimately was denied. City of Bridgeport v. Finizie, __U.S.__, 130 L. Ed. 2d 284, 115 S. Ct. 324 (1994). A petition for rehearing likewise was denied. City of Bridgeport v. Finizie, __U.S.__, 130 L. Ed. 2d 560, 115 S.Ct. 656 (1994).

After all the appeals were resolved, the Superior Court once again entered a judgment of strict foreclosure on October 3, 1994, setting a law day for March 7, 1995. By then, the equity in the properties which had once existed had vanished, to the extent that the fair market value of the two properties totalled only $68,000.00, with a debt, exclusive of fees and costs, exceeding $157,000.00. On February 23, 1995, the Defendant filed an injunction application with the United States District Court. This also was decided in favor of the Plaintiff. Finizie v. City of Bridgeport, 880 F. Supp. 89 (D. Conn. 1995). However, on March 7, 1995, the law day, the Defendant filed her third bankruptcy. The Bankruptcy Court once again granted relief from the stay to the Plaintiff, allowing the Superior Court to enter judgment of strict foreclosure on August 7, 1995. In re Finizie, 184 B.R. 415 (B.D. Conn. 1995). Law days were established commencing October 3, 1995. Title vested in the Plaintiff several days later. The court also granted a Motion for Termination of Stay to the Plaintiff.

Thereafter, the Defendant sought no review of the termination, nor did she appeal from the judgment. It should be noted that the Defendant attended and was heard at the

hearing on the Motion for Judgment, as rendered on August 7, 1995. The claims of the Defendant otherwise are incorrect, and she offers no transcript to show otherwise. The allegations of improper conduct set forth in the Defendant's current petition against various parties, counsel and judges are false and unproven. The Defendant on October 2, 1995, filed a motion for immediate stay and to reopen and reargue. The motion requesting immediate stay was denied on October 2, 1995. No review from this action was sought. The motion to reargue and reopen was denied on October 12, 1995.

Thereafter, the Defendant filed an appeal to the Appellate Court. The Plaintiff filed a Motion to Dismiss dated November 8, 1995. The Appellate Court dismissed the appeal, and it also denied the defendant's Motion for Reconsideration. The Connecticut Supreme Court, on May 2, 1996, denied a petition for certification for review, City of Bridgeport v. Finizie, 237 Conn. 909 (1996), and an extension of an alleged stay for possible writ of certiorari to the United States Supreme Court. The Defendant then sought to have the court reconsider and articulate the denial of stay, which also was denied. The Defendant has now filed her petition for writ of certiorari to the United States Supreme Court, as dated July 31, 1996, the last day of her 90 day time limit to do so. The United States Supreme Court's Office of the Clerk reports a "filing" date of August 7, 1996, which is beyond the time for filing of 90 days.

SUMMARY OF THE ARGUMENT

The United States Supreme Court should not grant a writ of certiorari to the petitioner, Rona V. Finizie, as she has not shown "compelling reasons " as required by Rule 10 of the Rules of the Supreme Court of the United States.

The petitioner did not raise any federal claims at any stage of state court proceedings, and no court in the State of Connecticut has ruled on such claims. In fact, she did not timely appeal from the judgment of August 7, 1995, which she claims is the basis for this petition.

Further, the petitioner has presented no evidence that the facts alleged in her "Questions Presented" are true; the scenario set forth by her has no basis in fact.

Finally, the petition of the defendant is untimely under Rule 13, since it was "filed" more than 90 days from denial of certification by the Connecticut Supreme Court.

ARGUMENT

Rule 10 of the Rules of the Supreme Court of the United States requires that a petitioner show "compelling reasons" for granting of a petition for a writ of certiorari. The petitioner, Rona V. Finizie, in the case at bar appears to rely on Rule 10(c) by claiming in her Questions Presented that the Connecticut courts violated her federal constitutional rights. However, a closer look at her claims confirms that they do not provide the basis for review by the United States Supreme Court.

The petitioner filed an appeal to the Appellate Court of the State of Connecticut on November 2, 1995, from a judgment of the Superior Court of the State of Connecticut dated August 7, 1995. Connecticut Practice Book Sec. 4009 requires a party to appeal from a judgment within twenty days. No appeal was timely taken by the defendant from this judgment. As the foreclosed property upon which the defendant took an appeal was no longer owned by her, the Appellate Court of the State of Connecticut properly dismissed the appeal of the defendant as moot. Barclays Bank of New York v. Ivler, 20 Conn. App. 163, 167, cert. denied 213 Conn. 809 (1989). It is well established that a petitioner to the United States Supreme Court on a writ of certiorari must show that the federal claim was presented at the state court level. Webb v. Webb, 451 U.S. 493, 496 (1981), citing 28 USC §1257. The Court stated that when the highest state court has failed to pass on a federal question, "it will be assumed that the omission was due to want of proper presentation in the state court, unless the aggrieved party in this court can affirmatively show the contrary." Id., 495. At

no time has the petitioner raised on appeal, prior to the petition for writ of certiorari, any claim that her constitutional rights have been violated. As such, no court in Connecticut has decided any federal question which is subject to review at this time.

The defendant showed no special or important reasons for granting of her petition for certification to the Connecticut Supreme Court, and it was properly denied. A review of the decisions of the Bankruptcy Court and of the United States District Court on the defendant's most recent bankruptcy petition and injunction application provides ample evidence of the defendant's dilatory tactics throughout the history of the plaintiff's attempts to enforce its rights.

The petitioner makes several uncorroborated statements in her petition. Two of such statements include her denial that she agreed to a stipulated judgment in March 1987, (petition at p. 11) and her claim that the court denied her requests in 1993 to give testimony. (petition at p. 14) No proof of such statements exists. In fact, the petitioner was present at court in March 1987, with her counsel. Further, she did not offer testimony in 1993 despite an ability to do so. The petitioner's arguments cannot change the fact that she agreed to a judgment disposing of her real property in 1987 and has done everything in her power to prevent the judgment from being carried out. This includes three bankruptcy filings, numerous appeals in the state courts, a prior unsuccessful petition for writ of certiorari to the United States Supreme Court, and an unsuccessful injunction action in the United States District Court. There is no lack of due process, as claimed by the petitioner, as she has always had an opportunity to be heard in court at all times, having

voluntarily chosen not to pursue her rights.

The Office of the Clerk has reported a "filing" date of August 7, 1996, despite the July 31, 1996 date on the petition itself. As the petition is untimely, filed beyond the 90 days allowed by Rule 13, the Court lacks jurisdiction to entertain the petition.

CONCLUSION

The petitioner, Rona V. Finizie, has shown no "compelling reasons" for review by the United States Supreme Court on certiorari. At no time has she raised any federal questions for decision by the courts in the State of Connecticut. The factual claims made by her in claiming constitutional violations against her are unsupported. The petition itself is untimely. The petition should be denied.

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